S. B. CIVIL REVISION PETITION NO. 146/2007
S. B. CIVIL REVISION PETITION NO. 147/2007
S. B. CIVIL REVISION PETITION NO. 148/2007
S. B. CIVIL REVISION PETITION NO. 149/2007
S. B. CIVIL REVISION PETITION NO. 150/2007
S. B. CIVIL REVISION PETITION NO. 151/2007
S. B. CIVIL REVISION PETITION NO. 152/2007
S. B. CIVIL REVISION PETITION NO. 153/2007
S. B. CIVIL REVISION PETITION NO. 154/2007
S. B. CIVIL REVISION PETITION NO.155/2007

DATE OF ORDER :::: 30-05-2007

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr.Rajesh Joshi, for Petitioner.
Mr.G.R.Goyal, for Respondents.

Heard learned counsel for the parties.

The petitioners submitted application under Section 47, CPC, before the Executing Court, in all these matters, which were dismissed by the Executing Court.

The only dispute is with respect to the calculation of the amount which can be recovered by the respondent. According to the petitioner, in fact, the court below has not properly calculated the amount which could have been recovered from the petitioner in pursuance of the ultimate decision given by this Court in appeal.

It would be appropriate to point out that in the land acquisition proceedings, the award was passed. On reference application, the matter was referred to the Civil Court. The Civil Court enhanced the compensation and awarded solatium etc. The Union of India preferred appeal before this Court which was

dismissed by the learned Single Judge of this Court. The Division Bench, due to difference of opinion, referred the matter to the third Judge. The ultimate decision was given by the majority view. It will be worthwhile to mention here that during these proceedings, there were interim orders by which the petitioners were directed to deposit the amount before the Land Acquisition Officer and, thereafter, according to the petitioners, they could not have deposited the amount in the Civil Court and, therefore, the petitioners were not liable to pay the interest over the amount which petitioner deposited with Land Acquisition Officer from the date of deposit.

There are other objections also which includes the inclusion of the amount by the decree holder which has been quashed by the High Court by ultimate decision and further, the claim of interest over interest.

Prima facie, the case was made out by the petitioner that there are some mistakes in the calculation.

Learned counsel for the non-petitioners submitted that they have filed revised calculation before the Executing Court.

In view of the above reasons, virtually, it is admitted fact that the order dated 12th May, 2006, by which the petitioners' objections were rejected by the Executing Court, was not correct, because it is admitted case of the decree holders also that there is some calculation mistake.

In view of the above reasons, these revision petitions deserve to be allowed, hence allowed and the impugned order dated 12th May, 2006 is set aside. The Executing Court is directed to give opportunity to the petitioner to submit their fresh calculation and, thereafter, decide the actual amount which may be due within the judgment by which the ultimate rights have been decided of the parties by the decision of this Court. It will be appropriate that while calculating the amount

and interest etc. the Executing Court can take help of the judgment of the Supreme Court delivered in the case of Gurpreet Singh v. Union fo India, (2006) 8 SCC 457 and any other judgments which may be relied upon by both the parties.

At this place, it will be appropriate to mention that the Executing Court should keep in mind that the Executing Court is not empowered to go beyond the issues which have already been decided by the Court in the main proceedings.

Both the parties are directed to appear before the Executing Court on the date which already fixed in execution case.

(PRAKASH TATIA), J.

scd.